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10 Attorneys for Plaintiff
CARDINAL HEALTH 110, INC. d/b/a
11 CARDINAL DISTRIBUTION

12 **IN THE UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14

15 CARDINAL HEALTH 110, INC., d/b/a
16 CARDINAL DISTRIBUTION, a Delaware
corporation,

17 Plaintiff,

18 vs.

19 AMG PHARMACY, INC., a California
20 corporation d/b/a MIKE'S MEDICAL
CENTER PHARMACY and RED
21 SQUARE PHARMACY; and LYUDMILIA
LYUSTIN, an individual;

22 Defendants.
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CASE NO. CV 08-0788 JL

**PARTIES' JOINT CASE
MANAGEMENT STATEMENT**

1 Pursuant to Civil Local Rule 16-9, Plaintiff Cardinal Health 110, Inc. d/b/a Cardinal
2 Distribution, and Defendants AMG Pharmacy Inc. d/b/a Mike's Medical Center Pharmacy and Red
3 Square Pharmacy, and Lyudmilia Lyustin (collectively, "Defendants"), as and for their Joint Case
4 Management Statement, state as follows:

5
6 **A. Jurisdiction and Service.** The Court has jurisdiction over this action pursuant to 28
7 U.S.C § 1332 because there is complete diversity of citizenship between Plaintiff and Defendants and
8 the amount in controversy exceeds \$75,000. The parties agree that this Court has personal jurisdiction
9 over each of the parties and that venue is proper in this forum, and that all parties have properly been
10 served with the Complaint, Civil Cover Sheet, Summons, and Amended Answer.

11
12 **B. Facts.** In August and September 2005, Defendants entered into their respective credit
13 agreements with Plaintiff. Defendant Lyustin also agreed to unconditionally guaranty to Plaintiff the
14 prompt and full payment (and not merely the ultimate collectability) and performance of all
15 obligations of AMG to Cardinal. Pursuant to those agreements, Plaintiff sold and delivered medical
16 products and supplies to AMG. However, Defendants failed to pay the invoices sent by Plaintiff as
17 they became due, and, as of November 30, 2007, Defendants alleged outstanding obligations to
18 Plaintiff totaled \$480,904.16. After demanding payment in July 2007, Plaintiff initiated the present
19 action on February 4, 2008.

20
21 **C. Legal Issues.** The primary contention between the parties is factual and not legal in
22 nature. However, this case may involve legal issues related to breach of contract, accounts stated, and
23 breach of guaranty.

24
25 **D. Motions.** There are no currently pending motions. Plaintiff anticipates filing a motion
26 for summary judgment.

27
28 **E. Amendment of Pleadings.** The parties should be allowed until September 12, 2008 to
join additional parties and to amend the pleadings.

1 **F. Evidence Preservation.** Since the action was filed, the parties have taken appropriate
2 steps to preserve any and all information, electronic or otherwise, which may be within the proper
3 scope of discoverable information as contemplated under the Federal Rules of Civil Procedure. The
4 parties agree that Plaintiff's electronic preservation is limited to certain, identified individuals. The
5 parties agree that all electronically stored information shall be produced in hard copy.

6
7 **G. Disclosures.** On May 7, 2008, Plaintiff provided Defendants with its Rule 26(a) initial
8 disclosures. Defendants will provide their initial disclosures on or before May 13, 2008.

9 **H. Discovery.** The parties have discussed a discovery plan and jointly propose the
10 following:

11 **1.** Discovery may be needed with respect to each of the factual allegations of the
12 Complaint and any defenses that Defendants may allege thereon, including but no limited to the
13 following subjects: goods and services rendered by Plaintiff to Defendants; any heretofore
14 unaccounted payments by Defendants to Plaintiff for goods and/or services; and any transfer or sale of
15 Defendants' assets after Defendants became indebted to Plaintiff.

16
17 **2.** All discovery should be commenced in time to be completed by August 29,
18 2008.

19 **3.** Maximum of 25 interrogatories by each party to any other party.

20 **4.** Maximum of 30 requests for admission by each party to any other party.

21 **5.** Maximum of 5 depositions by Plaintiff and 5 by Defendants. Each deposition
22 limited to a maximum of six hours unless extended by agreement of parties.

23 **6.** Reports from retained experts under Rule 26(a)(2) due from Plaintiff by August
24 29, 2008, and from Defendants by October 31, 2008.

25 **7.** Supplementation under Rule 26(e) is due by October 31, 2008.

26
27 **I. Class Actions.** This case is not a class action.

1 **J. Related Cases.** Plaintiff is not involved in any related cases or proceedings pending
2 before another judge of this court, or before another court or administrative body. Defendants are
3 involved in the following related cases or proceedings: *AMG v. Shewry*, Case No. RG07330183,
4 pending in Alameda County Superior Court; *McKesson v. AMG*, Case No. RG07340118, pending in
5 Alameda County Superior Court; and *Independent Pharmacy v. AMG*, Case No. CGC-07-466-426,
6 pending in San Francisco Superior Court.
7

8 **K. Relief.** Plaintiff is seeking an amount to be determined at trial but not less than
9 damages of \$441,198.11 as the principal balance due and owing for medical products delivered on
10 credit by Plaintiff to Defendants under the parties' various agreements, plus interest charges and
11 service charges of \$39,706.05, through November 30, 2007, plus service charges and/or pre-judgment
12 interest accruing at the annual rate of 18%, or the maximum amount allowed by law, from November
13 30, 2007, through the date of judgment, as provided by the parties' credit agreements. In addition,
14 Plaintiff is seeking its attorneys' fees, costs, and expenses as provided for by the parties' credit
15 agreements.
16

17 **L. Settlement and ADR.** The parties remain open to the prospect of settlement. In
18 compliance with ADR L.R. 3-5, the parties have agreed to participate in non-binding mediation at a
19 date that has yet to be determined.
20

21 **M. Consent to Magistrate Judge For All Purposes.** At this time, the parties do not
22 consent to have a magistrate judge conduct all further proceedings including trial and entry of
23 judgment.
24

25 **N. Other References.** This case is not suitable for reference to binding arbitration, a
26 special master, or the Judicial Panel on Multidistrict Litigation.
27
28

1 **O. Narrowing of Issues.** As the issues in this case relate almost exclusively to
2 Defendants' receipt of goods from Plaintiff and whether Defendants' paid Plaintiff for those goods,
3 stipulations as to both goods received and monies paid would facilitate trial.

4 **P. Expedited Schedule.** This is the type of case that can be handled on an expedited basis
5 with streamlined procedures.

6 **Q. Scheduling.** The parties' initial case management conference is scheduled for May 14,
7 2008, and the parties agree to the entry of a scheduling order that includes the dates outlined herein.
8 The parties request a pretrial conference in January 2009. All potentially dispositive motions should
9 be filed by December 12, 2008. The parties remain open to the prospect of settlement. Final lists of
10 witnesses and exhibits under Rule 26(a)(3) should be due by January 16, 2009. Parties should have
11 twenty one (21) days after service of final lists of witnesses and exhibits to list objections under Rule
12 26(a)(3). The case should be ready for trial by February 20, 2009.

13 **R. Trial.** Defendants have requested to proceed before a jury, and at this time trial is
14 expected to take approximately three (3) days.

15 **S. Disclosure of Non-party Interested Entities or Persons.** Plaintiff has filed its
16 Certification of Interested Entities or Persons, which states:

17 Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed persons,
18 associations of persons, firms, partnerships, corporations (including parent
19 corporations) or other entities (i) have a financial interest in the subject matter in
20 controversy or in a party to the proceeding, or (ii) have a non-financial interest in that
21 subject matter or in a party that could be substantially affected by the outcome of this
22 proceeding: Plaintiff Cardinal Health 110, Inc. is the wholly-owned subsidiary of
23 Cardinal Health, Inc.

24 Defendants are preparing for filing their Certification of Interested Entities or Persons, which state that
25 United Care Pharmacy, LLC has an interest in the assets of Defendant AMG.

1 DATED: May 7, 2008

Respectfully submitted,

2
3 By: /s/ Orrin L. Grover

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Attorneys for Plaintiff

ATTESTATION CLAUSE

I, William J. Goines, am the ECF User whose ID and password are being used to file this JOINT CASE MANAGEMENT STATEMENT. In compliance with General Order 45, X.B., I hereby attest that Orrin L. Grover and Jason Elster have concurred in this filing.

Date: May 7, 2008

GREENBERG TRAURIG LLP

By: /s/ William J. Goines
William J. Goines